

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-2 and 4-33 were pending. Claims 34-41 are added in the Reply. Therefore, claims 1-2 and 4-41 are pending. Claims 1, 8, 11 and 26 are independent.

ALLOWABLE SUBJECT MATTER

Applicant appreciates the Examiner's indications that claim 33 define allowable subject matter. *See office action, page 16.*

§ 103 REJECTION – MIYAWAKI, MIMURA

Claims 1-2, 4, 6-8, 11-16, 18-19, 21, 23, 26 and 29-32 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Miyawaki et al. (U.S. Patent 6,522,360) in view of Mimura et al. (U.S. Patent 5,282,045). *See Office Action, pages 2-10.* Applicant respectfully traverses.

Contrary to the Examiner's allegation, the combination of Miyawaki and Mimura cannot teach or suggest all features of the invention as claimed. For example, independent claim 1 recites, in part "a temporary storage device configured to store the angle-of-view confirmation image and the in-focus confirmation image." The Examiner admits that Miyawaki fails to teach at least this feature. *See Office Action, page 4, lines 3-6.*

However, contrary to the Examiner's allegation, Mimura cannot correct at least this deficiency of Miyawaki. Mimura is structured toward a television camera apparatus that is capable of obtaining an image which is of great depth-of-field and is of high resolution. *See Mimura, column 1, lines 7-13.* Referring to Fig. 1, Mimura discloses that two images are captured and combined to achieve the desired result of high resolution and great depth. More specifically, first an image that is focused on nearby subject is captured. *See Fig. 1, image 1; column 4, lines 5-12.* Then the same scene with the distant objects in-focus is captured. *See Fig. 1, image 2; column 4, lines 12-15.* Then a composite image 3 is generated by abstracting the focus features of the image 1 and image 2 so that the composite image has both near and distant views in focus. *See Fig. 1, image 3; column 4, lines 15-27.* Mimura indicates that image 1 and image 2 are alternately stored in image memory 7 and image memory 8 as illustrated in Fig. 2. *See column 4, lines 51-59.* The respective memories are read and the composite image is generated by the single composition circuit 9. *See column 4, lines 59-62.*

In the Office Action, the Examiner alleges that the image memories 7 and 8 combined are equivalent to the temporary storage device as recited in claim 1. However, as clearly described above, both the image memory 7 and 8 are used to store the same scenery. Thus, at best, the image memory 7 and 8 are both utilized to store angle-of-view images. Neither of the memories is used to store

the in-focus confirmation image as recited in claim 1. Because both Miyawaki and Mimura fail to teach or suggest the temporary storage device as recited, the combination also fails to teach or suggest the recited feature. Thus, independent claim 1 is distinguishable over the combination of Miyawaki and Mimura.

The Final Office Action fails in other regards as well. In the Office Action (and in previous office actions), the Examiner alleges that the fourth and sixth embodiments of Miyawaki may be combined. The alleged motivation for doing so is that the user is not fatigued by viewing both the total image and the zoomed image on the same display and is safeguarded against mistaken recognition, while the picture portion desired to be viewed may be designated easily and the picture may be seen as being magnified smoothly and continuously. However, it is noted that the alleged motivation is not present in Miyawaki. Thus, the requirement that the motivation must be within the cited references is not met. *See M.P.E.P. 2143.01.*

It appears that obviousness has been assumed merely on the assumption that the combination of the references includes all claimed elements. However, it is well established that even if the combination of the references teaches every element of the claimed invention, without some motivation to combine, a rejection based on a *prima facie* case of obviousness is improper. *See MPEP 2143.01.*

In this instance, it appears that the only motivation to combine has been gleaned from the teachings of the present application. This constitutes impermissible hindsight, however. *See MPEP 2141.* Simply put, there is no showing in the Final Office Action that the conclusion of obviousness was reached on the basis of facts gleaned from the prior art, and not from the claimed invention. *See MPEP 2143.*

For at least the above stated reasons, independent claim 1 is distinguishable over the combination of Miyawaki and Mimura.

Independent claim 8 recites, in part “temporarily storing the angle-of-view confirmation image and the in-focus confirmation image in a temporary storing device.” It is clearly demonstrated above that Miyawaki and Mimura, individually or in combination, cannot teach or suggest at least this feature. It is also demonstrated above that the combination of Miyawaki and Mimura is improper. For at least the above stated reasons, independent claim 8 is distinguishable over the combination of Miyawaki and Mimura.

Independent claim 11 recites, in part “a temporary storage device for storing the image of the subject and the focus image.” Clearly, claim 11 is distinguishable over the combination of Miyawaki and Mimura.

Independent claim 26 recites, in part “a temporary storage device configured to store the angle-of-view confirmation image and the in-focus

confirmation image from the image data conversion unit." Again, it is clear that claim 26 is distinguishable over the combination of Miyawaki and Mimura.

Claims 2, 4, 6-7, 12-16, 18-19, 21, 23, and 29-32 depend from independent claims 1, 8, 11 and 26 directly or indirectly. Therefore, for at least the reasons stated above with respect to the independent claims, these dependent claims are also distinguishable over the combination of Miyawaki and Mimura.

Applicant respectfully request that the rejection of claims 1-2, 4, 6-8, 11-16, 18-19, 21, 23, 26 and 29-32 based on Miyawaki and Mimura be withdrawn.

§ 103 REJECTION – MIYAWAKI, MIMURA, SUZUKI

Claim 5 stands rejected under 35 U.S. C. § 103(a) as allegedly being unpatentable over Miyawaki, Mimura and in further view of Suzuki (U.S. Patent 6,111,605). See *Office Action*, pages 10-12. Applicant respectfully traverses.

Claim 5 depends from independent claim 1 and it is demonstrated above that claim 1 is distinguishable over the combination of Miyawaki and Mimura. Suzuki is not relied upon to correct for at least the above noted deficiencies of Miyawaki and Mimura. Thus, claim 1 is distinguishable over the combination of Miyawaki, Mimura and Suzuki. Then for at least due to the dependencies

thereon claim 5 is also distinguishable over the combination of Miyawaki, Mimura and Suzuki.

Applicant respectfully request that the rejection of claim 5 based on Miyawaki, Mimura and Suzuki be withdrawn.

§ 103 REJECTION – MIYAWAKI, MIMURA, SOOHOO

Claims 9-10, 17, 20, 22, 24-25 and 27-28 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable Miyawaki, Mimura and in further view of Soohoo (U.S. Patent 5,754,348). *See Office Action, pages 12-16.* Applicant respectfully traverses.

The rejected claims depend from independent claims 1, 8, 11 and 26 directly or indirectly, and it is demonstrated above that the independent claims are distinguishable over the combination of Miyawaki and Mimura. Soohoo is not relied upon to correct for at least the above noted deficiencies of Miyawaki and Mimura. Thus, independent claims 1, 8, 11 and 26 are all distinguishable over the combination of Miyawaki, Mimura and SooHoo.

Then for at least due to the dependencies thereon the dependent claims are also distinguishable over the combination of Miyawaki, Mimura and Soohoo. Applicant respectfully request that the rejection of claims 9-10, 17, 20, 22, 24, 25 and 27-28 based on Miyawaki, Mimura and Soohoo withdrawn.

NEW CLAIMS

Claims 34-41 are added through this reply. All new claims . are distinguishable over the cited references individually or in any combination. For example, the new claims all depend from independent claims 1, 8, 11 or 26 directly or indirectly.

Applicant respectfully request that the new claims be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By: _____




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